

City Planning Department



Memo

To: Cranston City Plan Commission
From: Joshua Berry, AICP - Senior Planner / Administrative Officer
Date: October 28, 2021
Re: **Use & Dimensional Variance Application @ 234 Garden Street**

Owner/App: Williams I. Penefiel and Lesbia Santos
Location: 234 Garden Street, AP 5 Lot 345
Zone: B-1 (Single-Family and Two-Family Dwellings)
FLU: Single/Two-Family Residential Less Than 10.89 Units/Acre

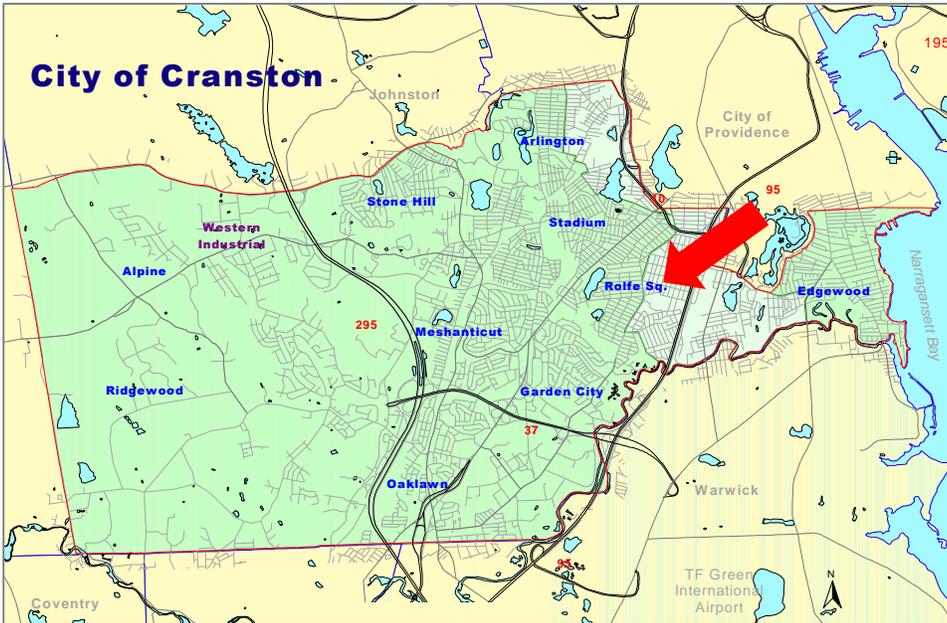
USE VARIANCE REQUEST:

- 1. To legalize an existing third residential unit converting a two-family to a three-family dwelling, a use not an allowed use in B-1 zoning. [Section 17.20.030– Schedule of Uses]

DIMENSIONAL VARIANCE REQUEST:

- 2. To legalize an existing third residential unit on an undersized lot. [17.20.090 Specific Requirements]

LOCATION MAP



ZONING MAP



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FUTURE LAND USE MAP



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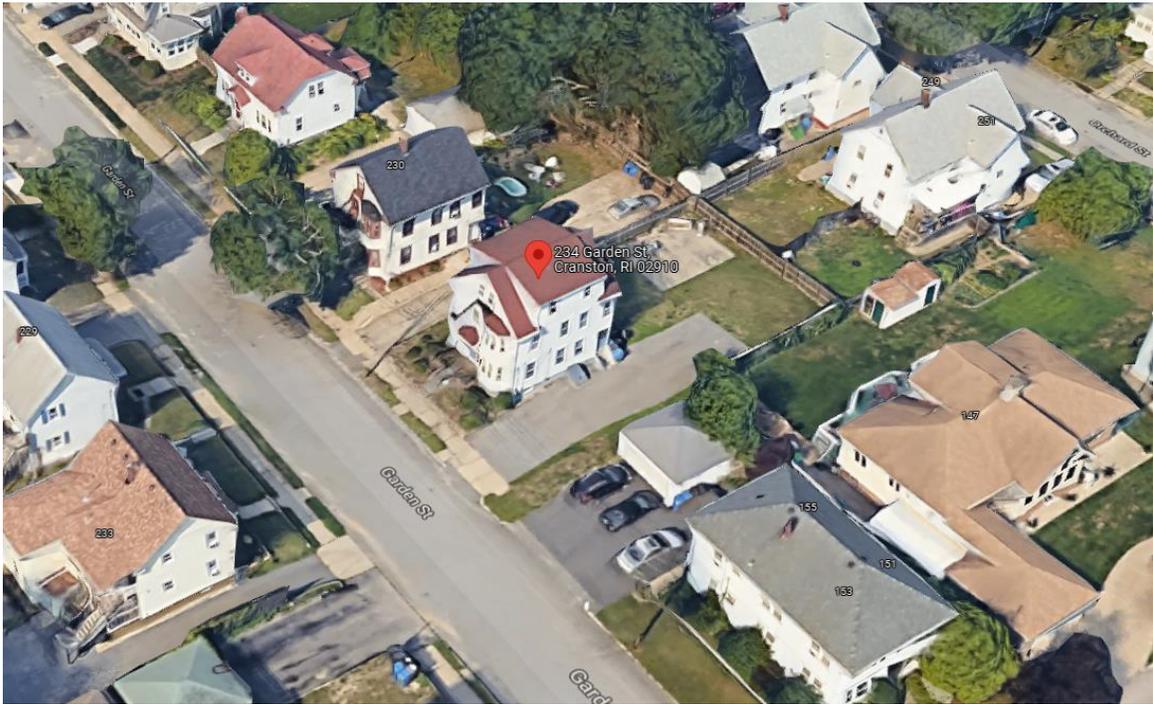


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AERIAL VIEW



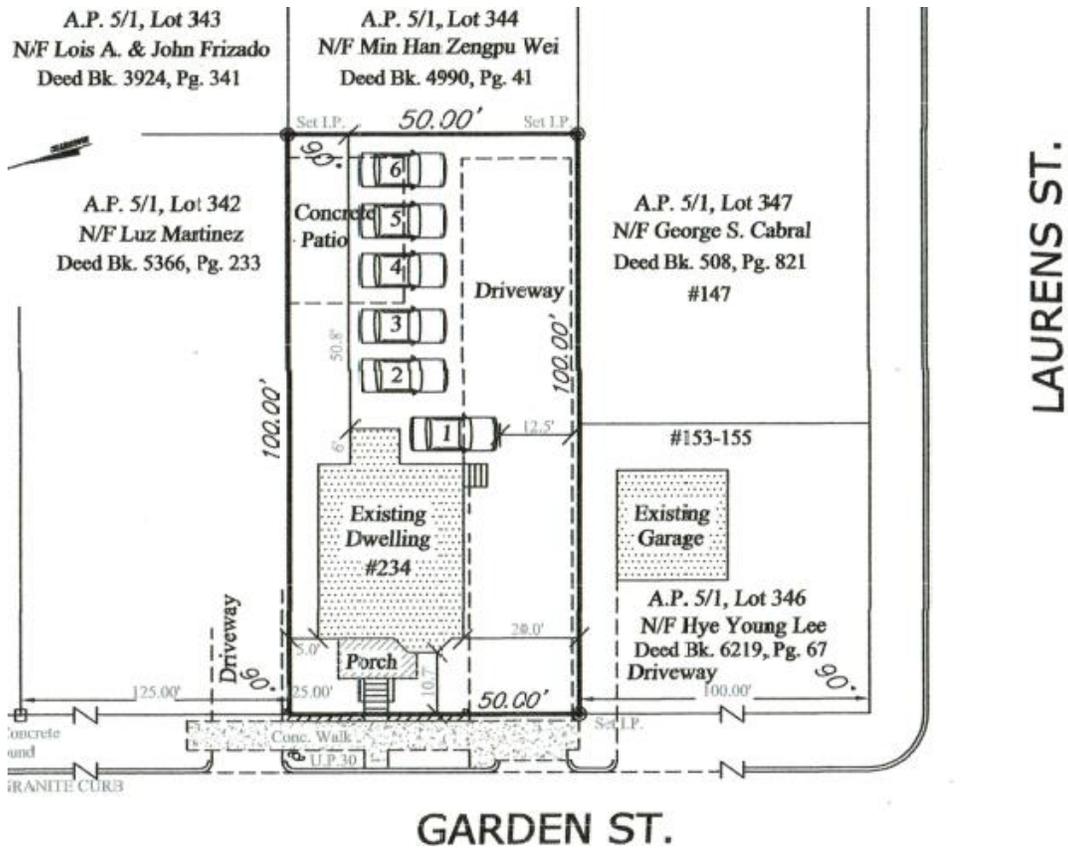
3-D VIEW



STREET VIEW



SURVEY PLAN



FINDINGS OF FACT:

1. City records indicate that the subject property was a legal nonconforming two-family residence as of 3/16/2009. The property was converted to a three-family dwelling sometime between that date and 7/20/2010, when city records assess the property as a three-family. There are no records of a building permit or zoning relief for the conversion.
2. The City's records show that the owner/applicant purchased the property in 2020, well **after** the two-family was illegally converted into a three-family.
3. The subject property is 5,000 ft². The Code requires a minimum lot area 8,000 ft² for two-family dwelling and, if three-family dwellings were an allowed use in B-1 zones, would require 14,000 ft² of lot area for the third dwelling unit.
4. The Survey Plan provided by the applicant demonstrates that there is more than sufficient existing off-street parking on-site (6 spaces are required).
5. The Comprehensive Plan Future Land Use Map (FLUM) designates the property as Single/Two-Family Residential Less Than 10.89 Units/Acre. The proposed density is 26.14 units/acre. The proposed *use* and the proposed *density* are **inconsistent** with the FLUM.
6. There are 5 three-family, 19 two-family and 52 single-family dwellings within a 400' radius. The average lot area of the 5 three-family homes is 5,165 ft² although 4 of the 5 are 5,000 ft². The legalization of a third dwelling unit would not be out of character with the surrounding area.
7. The Cranston Comprehensive Plan's Housing Element supports the development of housing stock in Eastern Cranston. This proposal is does not create sprawl and requires no environmental disturbance or extension of roadways or utilities and is therefore generally consistent with smart growth policies.
8. The proposal is consistent with several policies in the Comprehensive Plan, including but not limited to HG-4, HP-4.1, HP-4.6 and other excerpts addressing the inconsistency between zoning and existing lots of record. Specifically, the Comprehensive Plan HA-5 on page 70 recommends the city "Enable existing nonconforming two and three-family unit dwellings to be modified, maintained and improved within the existing neighborhoods."
9. There is no reason to suggest that the third dwelling unit has been or would have a negative impact on the neighborhood.

PLANNING ANALYSIS:

The applicant seeks to legalize an existing nonconforming dwelling unit in conflict with the allowed use and density in B-1 zoning. The subject property is 5,000 ft², well short of the 14,000 ft² that would be required if multifamily were an allowed use in B-1 zones. City records indicate that the owner/applicant did NOT illegally construct the unit, but that the conversion occurred prior to the purchase of the property by the owner/applicant in 2020. Importantly, there are single, two, and three-family found within 400', so the proposed three-family use is not inconsistent with the surrounding area. The subject property is slightly under the 5,165 ft² average area of lots with

three-family dwellings within the 400' radius, but equal to the median as 4 of the 5 are 5,000 ft². It is unknown whether the three-family homes have received zoning relief or are legally nonconforming, but **staff finds that the three-family would not be out of character with the surrounding area.**

Despite the undersize lot and nonconforming use, **staff does not find any reason to believe there would be a negative impact if relief were granted.** The unit has existed without any known issues for 11 years or longer. There is sufficient off-street parking on-site. Additionally, there would certainly be a negative impact to the owner and existing tenant if relief were denied. An existing unit would go unused in a time where housing stock is desperately needed, a seemingly wasteful outcome in the absence of any perceived down-side.

Staff finds that relief would have a positive impact in the City. Cranston has a significant housing shortage and this unit would be consistent with the Comprehensive Plan goals of creating housing choices in the city, specifically infill units in Eastern Cranston.

In contradiction with the above positive findings, **the proposed use and the proposed density are inconsistent with the FLUM.** The Comprehensive Plan Future Land Use Map (FLUM) designates the property as Single/Two-Family Residential Less Than 10.89 Units/Acre. The proposed density is 26.14 units/acre. However, HA-5 on page 70 of the Comprehensive Plan recommends the city "Enable existing nonconforming two and three-family unit dwellings to be modified, maintained and improved within the existing neighborhoods." It is unclear whether this language should be applied to units that were created illegally, but as this was not the fault of the applicant, staff interprets this section to be relevant in this instance. There are numerous other statements in the Comprehensive Plan that support the application, such as:

- HG-4 Promote housing opportunity for a wide range of household types and income levels;
- HP-4.1 Maintain a varied housing stock, with units of different age, size and type;
- HP-4.6 Promote the development of new housing that is affordable to average first-time buyers living in the City;
- A6, B1 and B2 Zoning Districts - Most properties in the A6, B1 and B2 zoning districts have less than the 6,000 square feet minimize lot size. In fact, about half (over 48 % and 55% of the A6 and B1 zones, respectively), are less than 5,000 square feet in area. This inconsistency between the lot sizes and zoning occurs typically in the older parts of the City, which limits development potential, and requires variances for changes to existing properties (p. 31); and
- Allowing 5,000 square foot lots within the A-6, B-1 and B-2 districts to become conforming would reduce a financial burden on the property owners when obtaining building permits in these districts. This could be an incentive to create more housing and improve existing housing. Although not required to be affordable, the new and improved units would help meet the current demand for housing. (p. 69)

In conclusion, staff feels that this specific request is reasonable, generally conforms to and would not negatively impact the neighborhood. However, inconsistency with the use and density prescribed by the Comprehensive Plan FLUM prevent staff from being able to make a positive recommendation to the Plan Commission.

RECOMMENDATION:

Due to the finding that the proposed density and land use are inconsistent with the Comprehensive Plan Future Land Use Map, but finding that the proposal is consistent with Comprehensive Plan policies and relief would not have negative impact and is compatible with the surrounding area, staff recommends the Plan Commission forward **no specific recommendation** on this application to the Zoning Board of Review.